

### **REMARKS**

Claims 1-11 are pending in the application. By this amendment, claims 1-4 are amended for the sake of precision and clarity, and not in a manner that is believed to be narrowing, and new claims 5-11 are added. In view of the foregoing amendments and following remarks, applicant respectfully requests withdrawal of the rejections and allowance of all of the claims.

#### **I. Formality**

Applicant thanks the Examiner for indicating that some of the foreign priority documents have been received, based on Japanese Patent Application No. 2003-106492, filed in the Japanese Patent Office on April 10, 2003. According to applicant's records, this information was provided to applicant on February 20, 2004, at the time of the filing of the present application.

Applicant respectfully requests that the Examiner confirm that no additional priority documents are required, or inform the applicant as to which documents the USPTO has not received.

#### **II. Allowable Subject Matter**

Applicant thanks the Examiner for indicating the allowability of claim 4. However, applicant believes that claims 1-3 are allowable for the reasons explained in greater detail below. Thus, applicant respectfully declines to rewrite claim 4 in independent form, pending further reconsideration of the rejections of claims 1-3.

#### **III. Claim 1 is not anticipated**

Claim 1 stands rejected under 35 USC 102(e) due to alleged anticipation by Ayres et al. (U.S. Patent Publication No. 2003/0078986, hereafter "Ayres"). Applicant respectfully submits

that Ayres fails to disclose all of the claimed combination of features recited in claim 1, for at least the reasons explained below.

Claim 1 is directed to a method for distributing video information to a mobile phone from a video contents server based on push technology. More specifically, once a user has registered in advance with a video information distribution service about an area, and if the mobile phone exists in the area for which the registration was made, the video information about the area is distributed from the video contents server to the mobile phone based on push technology. Claim 1 also recites that if the video information has not already been provided to the mobile phone that is not in use, displaying the video information in real time.

Ayres discloses distributed multimedia transfer that includes use of multimedia access kiosks 12, 14, 16 that store and deliver content to users 52, 54, 56, 58, 60. The kiosks 12, 14, 16 are controlled by a controller 18, and content is received into the network via the internet 26 from content providers 44, 46, 48. However, applicant respectfully submits that Ayres does not disclose performing a determination of whether video information has been provided to the mobile phone in order to control the real-time display of the video information.

Applicant respectfully submits that Ayres fails to disclose all of the claimed combinations of features recited in claim 1. For example, but not by way of limitation, applicant respectfully submits that Ayres fails to disclose “and if the video information has not already been provided to the mobile phone that is not in use, displaying the video information in real time”, as recited in claim 1.

In contrast, applicant respectfully submits that Ayres caches information received from content providers 44, 46, 48 in temporary storage at kiosks 12, 14, 16, and that the information is not displayed in real-time. For example, but not by way of limitation, Ayres requires the user to take a step to download the information, such as use of recording disk or short-distance wireless network. However, applicant respectfully submits that Ayres does not disclose or even suggest real-time display of downloaded video, and doing so if the video was not already provided to the mobile phone and the mobile is not currently in use, as recited in claim 1.

Accordingly, applicant respectfully requests withdrawal of the anticipation rejection, and allowance of claim 1.

#### **IV. Claims 2-3 would not have been obvious**

Claims 2-3 stand rejected due to alleged obviousness under 35 USC 103(a), over Ayres in view of Basu et al. (U.S. Patent Publication No. 2003/0195940).<sup>1</sup> Applicant respectfully submits that the proposed combination of references fails to disclose or suggest all of the claimed combinations of features recited in claims 2 and 3, for at least the reasons discussed below.

Claims 2 and 3 include the step of detecting network traffic, and permitting distribution of the video information when the network traffic is less than a threshold value.

As explained by the Examiner, Ayres does not disclose or suggest controlling distribution of video information based on a threshold value of network traffic. The Examiner proposes to combine Basu with Ayres to cure the acknowledged deficiency of Ayres.

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<sup>1</sup> Although the header includes claim 4 in this part of the rejection, it is clear from the Examiner's explanation in the Office Action that claim 4 contains allowable subject matter.

Basu discloses load balancing in the context of pre-fetching of data. For example, a paragraphs [0051]-[0054] of Basu, time intervals when network traffic is low are determined, and network traffic is generally lower than other time periods. However, Basu does not disclose any threshold above which pre-fetching will not occur. For example, but not by way of limitation, because there is no threshold disclosed in Basu, pre-fetching would necessarily be blocked in Basu during higher-traffic periods and allowed in relatively lower-traffic periods.

In contrast, the subject matter recited in claims 2 and 3 does not simply re-route traffic from higher-traffic periods to lower-traffic periods based on a daily, dynamically changing estimate (as is the case in Basu), but instead has a set threshold, such that if channel traffic is below the threshold for the entire day, then there would be no re-routing, and if traffic was above the threshold for the entire day, then there would be no re-routing.

Thus, applicant respectfully submits that Basu, in combination with Ayres, differs from claims 2 and 3, and thus does not teach or suggest controlling distribution of video information based on whether detected traffic is lower than a threshold, as recited in independent claims 2 and 3.

Additionally, Basu takes measurements of previous traffic and makes the decision to schedule pre-fetching based on these previous measurements, as disclosed as the portion of Basu cited by the Examiner. In contrast, the claims 2 and 3 detect the current traffic level and directly download to the mobile phone, as opposed to measuring the historical traffic level and then pre-fetching and temporarily caching to a caching server. For this additional reason, applicant

respectfully submits that claims 2 and 3 are patentably distinguishable from the Examiner's proposed combination of Ayres and Basu.

Furthermore, applicant respectfully submits that one skilled in the art at the time of the invention would not have been motivated to combine Ayer and Basu, without the benefit of hindsight in view of the present claims. For example, but not by way of limitation, Ayres makes no suggestion that would motivate one skilled in the art to combine it with Basu. The only possible motivation is the present specification, which applicant submits would be impermissible hindsight reconstruction.

For at least the foregoing reasons, applicant respectfully requests withdrawal of the obviousness rejections, and allowance of the claims.

#### **V. New Claims**

As shown in the foregoing amendments, applicant has added new claims 5-6, which recite subject matter similar to that of allowable claim 4. These claims are believed to be allowable for at least the same reason as claim 4, as well as at least due to their dependency from independent claims 2-3, from which they respectively depend, which are believed to be allowable for at least the reasons discussed above.

Additionally, applicant has added new independent claims 7 and 9 dependent claims 8 and 10-11, which are also believed to be allowable for reasons similar to those discussed above. Thus, applicant respectfully requests allowance of these claims as well.

As noted below, the required statutory fee for the excess independent claims is being paid through the Electronic Filing System.

**VI. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

New independent claims in excess of 3 have been added, and the required statutory fee for the two excess independent claims is being paid through the Electronic Filing System.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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**23373**

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